

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

591C0510

HOUSE BILL NO. 1080

Introduced by: Representatives Munson (Donald), Apa, Brown (Jarvis), Duenwald, and Fryslic
and Senators Moore, Olson, and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the inheritance tax exemptions and the rate of
2 taxation applied to certain individuals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-40-21 be amended to read as follows:

5 10-40-21. When property or any beneficial interest in such property passes by a transfer
6 subject to taxation under this chapter and the property exceeds the value of the exemption
7 specified in § 10-40-23 and does not exceed in value fifteen thousand dollars, the tax hereby
8 imposed is:

9 (1) One and one-half percent of the clear value of such interest in such property if the
10 person entitled to any beneficial interest in such property is a lineal issue of the
11 decedent, or any child adopted as such in conformity with the laws of this or any other
12 state, or any stepchild, or any child to whom such decedent for not less than ten years
13 prior to such transfer stood in mutually acknowledged relationship of a parent if such
14 relationship began at or before the child's fifteenth birthday and was continuous for
15 ten years thereafter, or any lineal issue of such adopted, step, or mutually
16 acknowledged child. For purposes of this subdivision, a stepchild is any child of a

1 decedent's spouse;

2 (2) Three percent of the clear value of such interest in such property if the person entitled
3 to any beneficial interest in such property is a lineal ancestor of the decedent or a
4 brother or sister;

5 (3) Four percent of the clear value of such interest in such property if the person entitled
6 to any beneficial interest in such property is ~~a brother or sister~~ or a descendant of a
7 brother or sister of the decedent, a wife or widow of a son, or the husband or
8 widower of a daughter of the decedent except as provided in subdivision (6) of this
9 section;

10 (4) Five percent of the clear value of such interest in such property if the person entitled
11 to any beneficial interest in such property is the brother or sister of the father or
12 mother or a descendant of a brother or sister of the father or mother of the decedent,
13 except as provided in subdivision (6) of this section;

14 (5) Six percent of the clear value of such interest in such property if the person entitled
15 to any beneficial interest in such property is in any other degree of collateral
16 consanguinity than is hereinbefore stated, or is a stranger in blood to the decedent, or
17 is a body politic or corporate, except as provided in subdivision (6) of this section;

18 (6) Three percent of the clear value of such interest in such property if the person entitled
19 to any beneficial interest in such property other than those persons defined in
20 subdivisions (1) and (2) of this section, continuously operated the business or farming
21 enterprise with the decedent for at least ten of the fifteen years immediately prior to
22 the decedent's death and if such property constituted real or tangible personal
23 property physically used by such person and the decedent in such business or farming
24 enterprise or if such property constitutes shares of stock in a closely held corporation
25 to the extent that those shares represent real or tangible personal property. In

determining the inheritance tax on a qualifying transferee who is also receiving nonfarm or nonbusiness property, the inheritance tax rates and increased rates shall be applied in a consecutive manner. The tax shall first be imposed on the value of the nonfarm or nonbusiness property received by the qualifying transferee. Then the tax shall be imposed on the value of the farm or business property starting in the same rate or increased rate category where the value of the nonfarm or nonbusiness property ends.

Section 2. That § 10-40-23 be amended to read as follows:

10-40-23. The following exemptions from the tax are hereby allowed:

- (1) All property transferred to public corporations within the state for strictly county, township, school, or municipal purposes, all property which escheats to the State of South Dakota for the benefit of the common school permanent school fund, and all property transferred in any manner to the State of South Dakota for the benefit of any permanent school fund;
- (2) Property transferred to a nonprofit hospital, nonprofit nursing facility, nonprofit foundation, elementary and secondary school, college, university, seminary of learning, church, or to an organization operating the same within the state or to a health care organization or charitable, benevolent, or religious society or institution or foundation as defined in §§ 10-4-9 to 10-4-9.3, inclusive. However, property transferred after July 1, 1949, to any such institution or organization operating the same without the state shall also be exempt if the laws of the state, territory or country in which such institution is located at the time of the transfer contained a reciprocal exemption provision under which was allowed a similar exemption of transfers to such institutions or organization operating the same within this state;
- (3) Property of the clear value of ~~thirty~~ one hundred thousand dollars transferred to each

1 of the lineal issue of the decedent, or any child adopted as such in conformity with the
2 laws of any state, or any stepchild, or any child to whom the decedent for not less
3 than ten years prior to such transfer stood in mutually acknowledged relation of a
4 parent, if such relationship began at or before the child's fifteenth birthday and was
5 continuous for ten years thereafter, or any lineal issue of such adopted, step, or
6 mutually acknowledged child. For purposes of this subdivision, a stepchild is any child
7 of a decedent's spouse;

8 (4) Property of the clear value of ~~three hundred~~ two thousand dollars transferred to each of the
9 lineal ancestors of the decedent or a brother or sister;

10 (5) Property of the clear value of ~~five hundred~~ two thousand dollars transferred to each
11 of the persons described in subdivision 10-40-21(3);

12 (6) Property of the clear value of ~~two hundred~~ one thousand dollars transferred to each
13 of the persons described in subdivision 10-40-21(4);

14 (7) Property of the clear value of ~~one hundred~~ thousand dollars transferred to each of the
15 persons and corporations described in subdivision 10-40-21(5).

16 Section 3. The provisions of this Act apply to any inheritance which is the result of the death
17 of any person on or after July 1, 1999.